

A RESOLUTION to correct a technical error in Resolution No. 2010-9 amending the Administrative Manual, Part III, Basin Regulations – Water Supply Charges relating to the Schedule of Water Charges.

WHEREAS, on September 15, 2010 the Commission approved Resolution No. 2010-9 amending the Basin Regulations relating to the Schedule of Water Charges; and

WHEREAS, the Resolution included an error in amendment to Section 5.1.4 of the Water Supply Charges Regulations, which was established the date on which the water supply charges became effective in the early 1970s; now therefore,

BE IT RESOLVED by the Delaware River Basin Commission that:

1. A new paragraph 3 is added to the “Be it resolved” section of Resolution No. 2010-9, stating, “~~The amended water charging rates shall take effect on January 1, 2011.~~”
2. The amendment of Section 5.1.4, which was incorporated in numbered paragraph 1 of Resolution No. 2010-9, is hereby stricken from that resolution. The expunged language is shown in strike-through in the re-printed text of paragraph 1, below:
 1. The Administrative Manual, Part III, Basin Regulations - Water Supply Charges, is hereby amended by revising Sections ~~5.1.4 and~~ 5.3.1 thereof to read as follows:

~~Section 5.1.4 Effective Date of Rates. Rates and charges shall apply to all water users not exempt hereunder beginning on January 1, 2011.~~

Section 5.3.1 Schedule of Water Charges. The Commission will from time to time, after public notice and hearing, make, amend and revise a schedule of water charges. Until changed, the charge for water shall be as follows:

 - A. \$80 per million gallons for consumptive use; and
 - B. \$.80 per million gallons for nonconsumptive use.
3. The text of Resolution No. 2010-9 in its entirety, with the stricken language removed, and a new paragraph 3 added, is attached.
4. Effective immediately, the attached version of Resolution No. 2010-9 shall become the official version of that action.

/s/ Katherine E. Bunting-Howarth
Katherine E. Bunting-Howarth, Chairwoman *pro tem*

/s/ Pamela M. Bush
Pamela M. Bush, Esquire, Commission Secretary

ADOPTED: December 8, 2010

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A RESOLUTION to amend the Administrative Manual, Part III, Basin Regulations – Water Supply Charges relating to the Schedule of Water Charges.

WHEREAS, in response to the need to fund certain Water Supply Storage Facilities Projects, the Commission between 1964 and 1974 established a system of water supply charges pursuant to Section 3.7 of the Delaware River Basin Compact; and

WHEREAS, in December 1964 the Commission adopted Resolution No. 64-16A, “A Resolution to establish policy concerning water supply in federal projects authorized in the Comprehensive Plan” to create a revenue stream to repay the obligations the Commission eventually assumed to purchase capacity at the federal government’s Beltzville and Blue Marsh water storage facilities; and

WHEREAS, Resolution No. 64-16A specifically provided that the debt for the Commission’s share of storage in these facilities would be repaid through the sale of water (or other products and services) and through an apportionment of the costs to the states benefiting from the facilities; and

WHEREAS, on April 7, 1971, the Commission adopted Resolution No. 71-4 “A Resolution to amend and supplement the Comprehensive Plan by adding a new article on policy for water supply charges” that established a schedule of rates for surface water withdrawals and provided that the charges for water supply would include all costs associated with making the basin water supply available and maintaining its continued availability in adequate quantity and quality over time; and

WHEREAS, Resolution No. 71-4 requires the Commission to collect sufficient annual revenues to meet all annual project costs, including debt service, operation, maintenance, replacement reserves and associated administrative costs; and

WHEREAS, the Commission and the federal courts recognized that the waters of the basin form a “unitary system” and that as a result, the charges for water withdrawals could be applied up-stream of Commission facilities; and

WHEREAS, Resolution No. 71-4 imposed charges only on withdrawals from surface waters of the basin; and

WHEREAS, Section 15.1(b) of the Compact, limited charges to the amounts of water withdrawn in excess of those “that could lawfully have been made without charge on the effective date of the Compact;” and

WHEREAS, Resolution No. 71-4 provided that the water rates would consist of “the weighted-average unit cost of all water stored by or on behalf of the Commission” and specified that the unit cost of all water would be determined “by dividing all of the Commission’s annual project cost by the net yield of the water supply in federal reservoirs authorized in the Commission’s Comprehensive Plan;” and

WHEREAS, in accordance with this formula, a schedule of water charges was established by Resolution No. 74-6, adopted May 22, 1974, that established charges for water of \$.04 per thousand gallons for consumptive use (\$40 per million gallons) and four-tenths of a mill per thousand gallons (\$.40 cents per million gallons) for non-consumptive use; and

WHEREAS, the schedule of water charges is codified in Section 5-3.1 of the Commission's Administrative Manual, Part III, Basin Regulations – Water Supply Charges; and

WHEREAS Resolution No. 78-14, adopted on October 25, 1978 after public notice and hearing, established the current schedule of water charges based on the formula set forth in Resolution No. 71-4 and using the unit costs of water stored by the Commission in the Beltzville and Blue Marsh Reservoirs.

WHEREAS, Resolution No. 78-14 amended the schedule of water charges to be \$.06 per thousand gallons for consumptive use (\$60 per million gallons) and six-tenths of a mill per thousand gallons for non-consumptive use (\$.60 per million gallons); and

WHEREAS, these rates have remained unchanged for more than thirty years and lag far behind the rates charged for raw (untreated water) by other purveyors; and

WHEREAS, Resolution No. 71-4 provides that cost rates and charges will be recomputed as often as necessary to reflect relevant changes in any cost components associated with sustaining base flows; and

WHEREAS, in order to maintain net income to the water supply storage facilities fund and ensure financial stability to address future operating and maintenance costs, the Commission proposed new rates in a February 2010 Notice of Proposed Rulemaking based on the formula established by Resolution No. 71-4, as follows: The consumptive use rate was proposed to be increased from \$60 to \$90 per million gallons effective January 1, 2011 and from \$90 to \$120 per million gallons effective January 2012. The non-consumptive use rate was proposed to be increased from \$.60 to \$.90 per million gallons effective on January 1, 2011 and from \$.90 to \$1.20 per million gallons effective January 1, 2012; and

WHEREAS, the Commission reviewed oral testimony offered during a Public Hearing on April 13, 2010 and written comments received through the close of the public comment period on April 16, 2010; and

WHEREAS, the Executive Director upon review of the public comments has recommended approval of a modified proposal to increase the consumptive water rate charges from \$60 per million gallons to \$80 per million gallons and the non-consumptive water rates from \$.60 per million gallons to \$.80 per million gallons effective January 1, 2011 and further, to undertake various studies over the next twenty-four months before proposing any additional increases or modifications; now therefore,

BE IT RESOLVED by the Delaware River Basin Commission:

1. The Administrative Manual, Part III, Basin Regulations - Water Supply Charges, is hereby amended by revising Section 5.3.1 thereof to read as follows:

Section 5.3.1 Schedule of Water Charges. The Commission will from time to time, after public notice and hearing, make, amend and revise a schedule of water charges. Until changed, the charge for water shall be as follows:

- A. \$80 per million gallons for consumptive use; and
 - B. \$.80 per million gallons for nonconsumptive use.
- 2. The amended water charging rates shall take effect on January 1, 2011.
 - 3. The Commission authorizes the Executive Director to establish a Water Charges Advisory Committee.
 - 4. The Commission authorizes the Executive Director to identify and develop proposals for studies addressing the various issues affecting water charges.

/s/ Katherine E. Bunting-Howarth

Katherine E. Bunting-Howarth, Chairwoman *pro tem*

/s/ Pamela M. Bush

Pamela M. Bush, Esquire, Commission Secretary

ADOPTED: September 15, 2010